
**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
APRIL 15, 2008**

CALL TO ORDER

5:00 P.M.

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Bishop at 5:00 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Joel Bishop, Mayor
Lisa A. Bartlett, Mayor Pro Tem
Lara Anderson, Council Member
Diane L. Harkey, Council Member (arrived at 5:02 p.m.)
Steven H. Weinberg, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Muñoz, City Attorney; Kathy Ward, City Clerk; Michael Killebrew, Administrative Services Director; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works/City Engineer; Lt. Mark Levy, Chief of Police; Mike Rose, Emergency & Support Services Manager; Kevin Evans, Director of Community Services & Parks, John Tilton, City Architect; Bobbi Ogan, Deputy City Clerk; DyAnne Weamire, Administrative Secretary; and Jackie Littler, Executive Secretary.

CLOSED SESSION

City Attorney Muñoz indicated there was a need for a Closed Session as follows:

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (2 cases)
 - Name of Case: Foley v. City of Dana Point, et al., Orange County Superior Court Case No. 07CC01984
 - Name of Case: Thompson v. City of Dana Point, et al., Orange County Superior Court Case No. 07CC04217
- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b1), (1 case); Scenic Drive

Mayor Bishop recessed the meeting into a Closed Session at 5:01 p.m. pursuant to Government Code Section 54956 *et. seq.*

RECONVENE CITY COUNCIL MEETING

Mayor Bishop reconvened the meeting at 6:00 p.m. All Council Members were present.

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CLOSED SESSION ANNOUNCEMENT

City Attorney Muñoz stated that there was no announcement.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by John Chaffetz.

INVOCATION

The Invocation was provided by Chaplain George “Bucky” Weeks of South Coast Medical Center.

PRESENTATIONS AND PROCLAMATIONS

VFW Voice of Democracy Winner

Mayor Bishop invited VFW Members Bob Moore, Pete Hammer, Wiley Hall, and Frank Tucker up to introduce the VFW Voice of Democracy Winner Andrea Frkovich. Andrea read her winning essay and Mayor Bishop presented her with a Certificate of Recognition for all of her accomplishments on behalf of the City.

Assistance League of Capistrano Valley

Debbie Carver, President of the Assistance League of Capistrano Valley provided a PowerPoint presentation which detailed the many ways the Assistance League has been able to provide support in the community and for the families at Camp Pendleton. The Capistrano Valley Chapter was founded in 1977 to support the students and teachers of the Capistrano Unified School District.

CONSENT CALENDAR

City Attorney removed Item No. 8 and Council Member Harkey removed Item No. 10 from the Consent Calendar.

The motion carried by the following vote:

AYES:	Council Members Anderson, Harkey, Weinberg, Mayor Pro Tem Bartlett and Mayor Bishop
NOES:	None
ABSENT:	None

1. WAIVE THE READING OF ORDINANCES AND APPROVE READING BY TITLE ONLY

APPROVED THE READING BY TITLE ONLY OF ALL ORDINANCES ON THE CONSENT CALENDAR AND THAT FURTHER READING OF SUCH ORDINANCES BE WAIVED.

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2. REGULAR MEETING MINUTES, APRIL 1, 2008

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, MARCH 25, 2008

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF APRIL 8, 2008

RECEIVED AND FILED.

5. YOUTH BOARD MEETING MINUTES, MARCH 20, 2008

RECEIVED AND FILED.

6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

7. CLAIMS AND DEMANDS

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

8. AMENDMENT TO EMPLOYMENT CONTRACT FOR CITY MANAGER

Staff removed this item from the Consent Calendar.

City Attorney Muñoz reported that this item was not complete and would have to be brought back to Council at another meeting.

9. ADOPTION OF A RESOLUTION APPROVING RENEWAL AMENDMENTS TO THE EXISTING AGREEMENTS BETWEEN THE CITY OF DANA POINT AND THE SOUTH COAST WATER DISTRICT FOR CITY INTERIM USE OF FACILITIES TO DIVERT DRY WEATHER FLOWS FROM STORM DRAIN CHANNELS

Adopted **Resolution 08-04-15-01** entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AMENDMENTS TO THE EXISTING AGREEMENTS BETWEEN THE CITY OF DANA POINT AND THE SOUTH COAST WATER DISTRICT FOR CITY INTERIM USE OF FACILITIES TO DIVERT DRY WEATHER FLOWS FROM STORM DRAINS.

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10. INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADDING ARTICLE 9 TO THE DANA POINT MUNICIPAL CODE INCLUDING SECTIONS 14.01.780 THROUGH 14.01.950, ENTITLED "CONSTRUCTION OF CABLE COMMUNICATIONS SYSTEMS".

Council Member Harkey removed this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Council Member Harkey stated that she would like to continue the item to the next City Council meeting.

Mayor Bishop opened the public comments.

John Heffernan (AT&T) asked the City Council for time to allow AT&T to comment and review on the ordinance.

Mayor Bishop closed the public comments.

Mayor Bishop asked if this ordinance was similar to what other cities had adopted.

City Attorney Munoz replied that this ordinance was drafted using the policies and goals that are important to the City but that it was similar to the ordinance adopted by the cities of Newport Beach and Irvine.

Mayor Bishop asked what would be an appropriate amount of time to allow AT&T to review the ordinance.

City Attorney Munoz replied that it was up to the Council to decide. He stated that a request for two (2) weeks was not unreasonable, but since the ordinance is similar to what other cities have adopted, AT&T will find that they are already familiar with its terms and provisions.

Mayor Bishop asked who else would be affected by this ordinance besides AT&T and has any other provider requested additional time to review the document.

City Manager Chotkevys replied that would apply to any cable provider in town and that no other provider had requested additional time to review the document.

Bill Marticorena (Rutan & Tucker) stated that he had reviewed the actions taken by Newport Beach and Irvine. He added that Newport Beach had adopted their ordinance about two years ago and prior to the adoption; their Council had created a subcommittee to study the issue. He stated that Irvine had adopted their ordinance about one year ago. He added that the ordinance would apply to Title 6 cable operators.

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Council Member Harkey stated that she wanted to ensure that the City was not denying any competition and she hoped that there would be communication between staff and AT&T. She added that she did not want it to be perceived that the Council was favoring one utility over another.

IT WAS MOVED BY COUNCIL MEMBER ANDERSON, SECONDED BY COUNCIL MEMBER WEINBERG, TO INTRODUCE FOR FIRST READING OF AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING ARTICLE 9, INCLUDING SECTIONS 14.01.780 THROUGH 14.01.950, ENTITLED "CONSTRUCTION OF CABLE COMMUNICATIONS SYSTEMS".

The motion carried by the following vote:

AYES:	Council Members Anderson, Weinberg, Mayor Pro Tem Bartlett and Mayor Bishop
NOES:	Council Member Harkey
ABSTAIN:	None

PUBLIC COMMENTS

Robert Traphagen, Dana Point, spoke regarding pending lawsuits that he and others had brought against the City.

Dr. James Seitz, Dana Point, spoke regarding the mobile home park closure.

Patrick Evans, Huntington Beach, spoke regarding potential litigation against the City.

Richard Gardner, Capistrano Beach, spoke regarding Pines Park and the opportunities for improvement that could be done at the park.

Bob Becker, Dana Point, reported that the 15th Annual Wag-A-thon will be held on April 26th on the island in Dana Point Harbor which begins at 8:30 a.m. and ends at 1:00 p.m. He provided a summary of the events that will take place and stated that there was a \$30 admission fee. For more information go to www.petprojectfoundation.org or call 949-595-8899.

Karin Schnell, Dana Point, announced that the 2nd Annual Dana Point Arts Festival will be held on Sunday, May 4th from 11:00 a.m. - 6:30 p.m. at La Plaza Park. She stated that the event was free and that there would be food, artist booths, exhibits, and a variety of live bands.

PUBLIC HEARINGS

There were no Public Hearings.

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UNFINISHED BUSINESS

11. SURFING HERITAGE MUSEUM

Council Member Harkey recused herself from this item due to a potential financial conflict of interest as a result of her interests in real property within 500' of Sea Terrace Park. She left the Chambers at 6:58 p.m.

City Manager Chotkevys provided a staff report and introduced Tom Pezman, Executive Director of the Surfing Heritage Foundation.

Tom Pezman stated that it was their vision to build and operate a passive use facility in Dana Point. He shared a video that depicted the work of the Foundation.

Dick Metz, founder of the Surfing Heritage Foundation, stated that he started the Foundation nine (9) years ago to try and preserve the history of surfing. He added that he has communicated with other cities but feels that Dana Point is the premiere place for the museum. He stated that Dana Point has been a City of firsts for the world of surfing and he felt that this museum would help Dana Point find its identity.

Jim Wilson, 30th Street Architects, stated that museums generate less car trips; requiring less parking. He added that in his research he has found that there are no traffic requirements for a museum and that a full study would need to be completed.

Mayor Bishop announced that Council Member Weinberg had to leave the meeting at 7:20 p.m.

Mayor Pro Tem Bartlett asked if the recommended action was only for this location or could it include other venues in Dana Point.

City Manager Chotkevys replied that this would be the most complimentary site, but if another venue better met the needs of the community then it would also be considered.

Council Member Anderson asked if the museum would be a revenue generator for the City.

City Manager Chotkevys replied that revenue could come in the form of a ground lease; the Foundation would be responsible for the construction and maintenance of the building but also providing uses for the City and community groups in the form of a use agreement. He stated that a venue such as this would be a draw for the guests of the St. Regis and the Ritz Carlton Hotels.

Mayor Bishop asked how the parking would be mitigated for the beach goers or workers of the St. Regis.

City Manager Chotkevys replied that staff would work with the Foundation to create a traffic management plan to ensure that the parking would be available for the visitors of Sea Terrace Park, the library, and the museum.

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Mayor Bishop asked if a site in the Town Center would be better.

City Manager Chotkevys replied that sites in the Town Center had been considered when discussing the expansion of the library but the constraints would be parking.

Mayor Bishop recessed the meeting at 7:36 p.m. and reconvened the meeting at 7:44 p.m.

Mayor Bishop opened the Public Comments.

Linda Brame, Dana Point, felt that the museum should be placed elsewhere in the City.

Ron Lackey, Dana Point, stated that he was excited about the possibility of the museum being built at Sea Terrace Park.

Richard Gardner, Capistrano Beach, stated that he supports the museum in our community.

Carlos Olvera, Dana Point, stated that he supports the idea of a museum but was concerned about the proposed location. He added that he would like other organizations to have access to the facility.

Roy Dohner, Dana Point, stated that he does not support the proposed location of the museum.

Art Brewer, Dana Point, stated that he supports the museum and he encouraged the City Council to support the project.

Colby Klink, Capistrano Beach, stated that he supports the museum and felt that it would be a tremendous opportunity for the City.

Eric Diamond, Dana Point, stated that he supports the museum at Sea Terrace Park.

Nichole Chambers, Dana Point Chamber of Commerce, stated that she supports the museum in Dana Point. She added that visitors to the City look for museums while on vacation. She stated that the museum would provide Dana Point with an economic boost.

Bruce Beal, Dana Point, stated that he supports the museum in Dana Point. He added that Dana Point was a City of many firsts in surfing history. He stated that the Chamber of Commerce Board of Directors had voted unanimously to support the museum.

Jay Longley, Dana Point, stated that he supports the museum in Dana Point.

Bob Mardian, Dana Point, stated that he supports the museum in Dana Point at the Sea Terrace Park location.

Mayor Bishop closed the Public Comments.

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Council Member Anderson stated that museums were a desired aspect in a park so this was not a new concept. She added that studies would need to be conducted, but felt this project was worth pursuing.

Mayor Pro Tem Bartlett stated that she appreciated all of the public input on the project. She added that she would like staff to pursue all possible locations to ensure the best venue for the museum. She encouraged everyone to participate in the public outreach and stated that she supports the museum in Dana Point.

Mayor Bishop reminded everyone that studies still needed to be completed on this project and stated that he supports the museum in Dana Point.

IT WAS MOVED BY COUNCIL MEMBER ANDERSON, SECONDED BY MAYOR PRO TEM BARTLETT TO AUTHORIZE STAFF TO DO THE FOLLOWING:

1. CONTINUE TO WORK WITH REPRESENTATIVES OF THE SURFING HERITAGE FOUNDATION ("FOUNDATION"); AND
2. CONDUCT A SHORT SERIES OF EXPANDED TOWN HALL MEETINGS WITH THE COMMUNITY TO FURTHER DISCUSS THE CONCEPT WITH THE COMMUNITY AT-LARGE TO GAUGE ACCEPTANCE AND TO WORK OUT ISSUES; AND
3. RETURN WITH POSSIBLE CONCEPTUAL DESIGN RENDERINGS OF A POTENTIAL SURFING HERITAGE MUSEUM ("MUSEUM"); AND
4. ADDRESS POTENTIAL MITIGATION ASSOCIATED WITH CONCERNS FROM THE COMMUNITY AT-LARGE; AND
5. RETURN WITH A SERIES OF POSSIBLE "DEAL POINTS" THAT MIGHT BE INCORPORATED INTO A COOPERATIVE AGREEMENT BETWEEN THE CITY OF DANA POINT AND THE FOUNDATION FOR FURTHERING THE CONCEPT OF A SURFING HERITAGE MUSEUM IN DANA POINT.

The motion carried by the following vote:

AYES: Council Members Anderson, Mayor Pro Tem Bartlett and Mayor Bishop
NOES: None
ABSENT: Council Members Harkey and Weinberg

NEW BUSINESS

There were no New Business items.

PUBLIC COMMENTS (Continued)

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There were no additional Public Comments.

STAFF REPORTS

City Manager Chotkevys reported on the status of the proposed Parking Ordinance. He stated that the Ordinance should be returning for City Council consideration at the first meeting in May.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Anderson reported the following:

- Reminded everyone that the animal shelter needs foster homes for kittens and that the kitten shower training class was scheduled for Sunday, April 20th from 4:00-6:00 p.m. For more information please call 949-492-1617.
- Earth Ocean Society annual clean up day this Saturday at La Plaza Park from 9:00 a.m. to noon.
- Assistance League – she encouraged everyone to check them out as they do so many good things for the community. For more information go to their website at www.capistranovalley.assistanceleague.org

Mayor Pro Tem Bartlett reported that she had attended the following:

- Several TCA Board Meetings
- April 4th – Southern Orange County Regional Chamber Ball in Irvine
- April 5th – Dana Point Woman's Club luncheon and fashion show. Elected officials modeled fashions from Fresh Product and Fullers.
- April 7th – Ribbon cutting ceremony at the new BBQ restaurant – Smokeys BBQ in the Monarch Bay Plaza.
- April 12th – Children's Hospital, Queen of Heart's Guild Annual Fundraiser event – Casino Night. All proceeds from the event will go towards purchasing 2 special warming beds for the Neonatal Intensive Care Unit at CHOC.

She announced the following upcoming events:

- April 16th – Ribbon cutting ceremony at Greenfield Communications on Violet Lantern at 12 noon.
- April 19th and 20th – Lantern Bay Park Relay For Life beginning at 10:00 a.m.
- April 24th – 4:00-6:00 p.m. Boys and Girls Club Teen Center groundbreaking ceremony.
- April 26th – Monarch Beach Sunrise Rotary – Annual Children's Charity fundraiser event at the Surf and Sand.

Mayor Bishop stated that he had submitted the meetings he had attended in writing to the City Clerk (attached as [Exhibit 1](#)). He read the following statement:

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“As of September 1, 2008 it will be illegal to dispose of SHARPS in your regular trash can at home or in the landfill. For this reason, the City of Dana Point launched a new SHARPS Disposal by Mail program in order to provide residents a safe and legal way to dispose of lancets, needles, and other SHARPS used to self-inject prescription medications. Residents who want to participate in the program can pick up their first SHARPS Disposal by Mail postage paid container for free at the CVS Pharmacy located at 32900 Pacific Coast Highway or the Rite Aide located at 24829 Del Prado. Residents will receive their first container free and will pay a \$5 co-pay for each additional container. For questions about the program, please call (949) 248-3571 or visit a participating pharmacy in Dana Point. Thank you for keeping your needles out of the trash”.

Mayor Bishop reported the following:

- The Lord of the Strings concert on April 25th will feature Hawaiian style music.
- He had taken three days of sailing lessons at the Embarcadero with his son.
- Judged the art contest for the “Images of Dana Point” which will be displayed at the Dana Point Arts Festival.
- South Coast Medical Center fashion show and golf tournament are coming up. If you are interested, please contact the City Manager and he will provide you with the information.
- State of the City Chamber Luncheon will be held on April 24th at the Beach House.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Bishop declared the meeting adjourned at 8:24 p.m. and announced that the next Regular Meeting of the City Council will be May 6, 2008, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

KATHY M. WARD
CITY CLERK

APPROVED AT THE MEETING OF May 6, 2008

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EXHIBIT 1

Meetings attended by Joel Bishop
4/1/08-4/15/08

4/2-4/08	Washington DC. See attached
4/5/08	Women's Club Fashion Show participant
4/7/08	Ribbon Cutting for Smokey's BBQ
4/10/08	Ribbon Cutting for Pacifica Laser
4/10/08	League of Cities Meeting
4/11/08	Office Hours
4/12/08	'Images of Dana Point' juried art competition, judge

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VAN SCOYOC ASSOCIATES, INC.
101 CONSTITUTION AVENUE, N.W.
SUITE 600 WEST
WASHINGTON, D.C. 20001

City of Dana Point
Mayor Joel Bishop
Brad Fowler
April 2-4, 2008

Wednesday, April 2

6:00pm **Arrive in Washington**

8:30pm **Dinner at District Chophouse**
509 7th St NW
(202) 347-3434
Reservation for 2 under Brad Fowler

Thursday, April 3

8:30am **Breakfast meeting at Washington Marriott**
1221 22nd Street NW
Washington, DC 20037
1-202-872-1500

10am **Meeting with Ada Benavides, Ken Turner, Ken Zwickl**
Army Corps of Engineers
441 G St NW
202-761-0405

11:30am **Meeting with Congressman Campbell and Staff**
David Bowser, Chief of Staff, and David Malech, LD
1728 Longworth
202-225-5611

1pm **Meeting with Roger Cockrell**
Senate Energy and Water
186 Dirksen Senate Office Building

1:30pm **Meeting with Ryan Hunt**
Office of Senator Feinstein
331 Hart Senate Office Building
202-224-3841

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6:15pm **Dinner at Capital Grille**
601 Pennsylvania Ave, NW
(202) 737-6200
Party of 4 under Thane Young

Friday, April 4

9:15am **Meeting with Taunja Berquam**
House Energy and Water
2362 Rayburn HOB
(202) 225-3421

9:45am **Meeting with Jason Gagnon**
Office of Congressman Calvert
2201 Rayburn HOB
202-225-1986

10:30am **Meeting with Danielle Leone**
Office of Senator Boxer
112 Hart Senate Office Building
202-224-3553

2:20pm **Depart Washington**

Contacts:

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